

Application Serial No.: 09/891,806
Amdt. Dated August 19, 2005
Reply to Office Action of May 19, 2005

REMARKS

The Office Action dated May 19, 2005 and the references cited therein have been carefully considered. In response to the Office Action, Applicants have canceled Claims 1-7 and amended Claims 8, 15, 16, 18 and 19 which, when considered with the remarks set forth below, are deemed to place the case in condition for allowance. As a result of the present Amendment, Claims 8-10 and 12-20 remain in the case for continued prosecution.

In the Office Action, the Examiner has withdrawn the previous rejection based on the Nail Max 2000 reference. However, upon further consideration, the Examiner has now rejected all of the pending Claims 1-3, 5-10 and 12-20 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 1,942,332 to Hamberg and further in view of several additional cited references. In particular, the Examiner states that the Hamberg patent discloses an artificial fingernail comprising a nail body that can be made from a transparent material and that includes a nail tip portion provided with an opaque coating of any desired color.

In response, Applicants have canceled Claims 1-7 and have limited the remaining Claims 8-10 and 12-20 to an artificial nail tip having a nail base portion that is entirely substantially transparent and corresponds in size and shape to only the distal end of the natural nail. It is respectfully submitted that the primary Hamberg reference is concerned with full artificial nail covers and does not teach or suggest a tip adapted to be adhered to the distal end of the natural nail. Accordingly, it is respectfully submitted that Claims 8-10 and 12-20 patentably distinguish over the prior art.

In particular, the Hamberg patent discloses a full artificial fingernail cover that includes a nail bed portion corresponding in size and shape to the full natural nail. The artificial fingernail cover disclosed in the Hamberg patent is designed to be adhered to the entire natural nail, as opposed to being adhered to only the distal end of the natural nail. There is no teaching or suggestion in the Hamberg patent of providing an artificial nail tip

Application Serial No.: 09/891,806
Amdt. Dated August 19, 2005
Reply to Office Action of May 19, 2005

that has a nail bed portion corresponding in size and shape to only the distal end of the natural fingernail.

Moreover, it is further submitted that the ornamental features of the full artificial fingernail cover disclosed in the Hamberg patent are quite different than the contrasting features defined in the claimed invention. Specifically, the Hamberg patent describes a full cover having a tip portion 14 and a bed portion 15. It is stated that the full cover can be made from a transparent material and that the tip portion 14 “may be colored or uncolored.” (See col. 1, lines 17-20 and col 2, lines 37-40.) However, it is unambiguously stated in the specification of the Hamberg patent that: “The body portion of the shield 11 is provided with a colored portion 15.” (See col. 2, lines 19-21.) In other words, while the tip may be colored or uncolored, the bed portion 15 is always colored. There is absolutely nothing disclosed in the Hamberg patent to suggest otherwise.

Indeed, the object of the Hamberg invention is to provide a full artificial fingernail “having a portion thereof suitably colored and the remaining portion thereof either colored or uncolored.” (See col. 1, lines 20-22.) It is clear from the specification and drawings that the portion which is to be “suitably colored” is the bed portion 15 and the portion which is to be “colored or uncolored” is the tip portion 14. This arrangement is the exact opposite of that set forth in the claims of the present application.

Particularly, the claims of the present application define a tip portion that is opaque (e.g., colored) and a bed portion which is “entirely substantially transparent” (e.g., uncolored). The stated purpose for this arrangement is to allow the natural color of the natural fingernail to be visible through the bed portion of the artificial nail tip. This is not possible with the Hamberg cover in that the bed portion of the Hamberg cover is colored. Thus, the colored bed portion of the Hamberg cover will not allow the natural color of the natural fingernail to be visible thererethrough.

In sum, the Hamberg patent does not teach or suggest an artificial nail tip having a bed portion corresponding and adapted to be adhered to only the distal end of the natural

Application Serial No.: 09/891,806
Amdt. Dated August 19, 2005
Reply to Office Action of May 19, 2005

fingernail. Additionally, the esthetic features of the full cover disclosed in the Hamberg patent are strikingly different than that of the claimed invention. Accordingly, it is respectfully submitted that Claims 8, 15, 16, 18 and 19, as amended, and the claims that depend therefrom patentably distinguish over the prior art.

In view of the foregoing amendment and remarks, favorable consideration and allowance of the application with Claims 8-10 and 12-20 are respectfully solicited. If the Examiner believes that a telephone interview would assist in moving the application toward allowance, he is respectfully invited to contact the Applicants' attorney at the telephone number listed below.

Respectfully submitted,



Steven T. Zuschlag
Registration No.: 43,309
Attorney for Applicant(s)

HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, New York 11791
(516) 822-3550
STZ/dlb
208767